

Michael M.K. Sebree #142649
William E. Adams #153330
Dawn Newton #209002
FITZGERALD ABBOTT & BEARDSLEY LLP
1221 Broadway, 21st Floor
Oakland, California 94612
Telephone: (510) 451-3300
Facsimile: (510) 451-1527
Emails: wadams@fablaw.com;dnewton@fablaw.com

Attorneys for Plaintiff and Defendant-in-Counterclaim
HUBB SYSTEMS, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO

HUBB SYSTEMS, LLC,

Plaintiff,

vs.

MICRODATA GIS, INC.,

Defendant.

Case No.: C07-02677 BZ

PLAINTIFF AND DEFENDANT-IN-COUNTERCLAIM HUBB SYSTEMS, LLC'S ANSWER TO DEFENDANT AND PLAINTIFF-IN-COUNTERCLAIM MICRODATA GIS, INC.'S COUNTERCLAIMS

Courtroom G
Magistrate Judge Bernard Zimmerman

AND RELATED COUNTERCLAIMS

Counterclaimant Hubb Systems, LLC ("Hubb") submits its Answer to the counterclaims of Defendant and Counterclaimant microDATA GIS, Inc. alleging Trademark Infringement, False Designation of Origin, Unfair Competition, and Declaratory Judgment and denies any and all such allegations, and further admits or denies the specific allegations of the Counterclaim and states the affirmative defenses as follows:

1. Hubb admits the allegations of subject matter jurisdiction contained in paragraph 1. Except as expressly admitted herein, Hubb denies all allegations in paragraph 1 of the Counterclaim.

1 36. Hubb denies all allegations in paragraph 36 of the Counterclaim.
2 37. Hubb denies all allegations in paragraph 37 of the Counterclaim.
3 38. Hubb denies all allegations in paragraph 38 of the Counterclaim.
4 39. Hubb denies all allegations in paragraph 39 of the Counterclaim.
5 40. Hubb denies all allegations in paragraph 40 of the Counterclaim.
6 41. Hubb denies that microDATA GIS, Inc. is entitled to any of the relief sought in
7 the Counterclaim, or any relief at all.

8 **AFFIRMATIVE DEFENSES**

9 Hubb hereby asserts the following Affirmative Defenses to the Counterclaim:

- 10 A. microDATA's claims, and each of them, fail to state a cause of action upon
11 which relief may be granted.
- 12 B. microDATA's claims, and each of them, are barred by the doctrine of laches.
- 13 C. microDATA's claims, and each of them, are barred by the doctrine of waiver.
- 14 D. microDATA's claims, and each of them, are barred by the doctrine of estoppel.
- 15 E. microDATA's claims, and each of them, are barred by the doctrine of unclean
16 hands.
- 17 F. microDATA's claims, and each of them, are barred by microDATA's conduct
18 constituting acquiescence to Hubb's use and registration of its marks.
- 19 G. microDATA's claims, and each of them, are barred by microDATA's conduct
20 constituting abandonment of rights, if it ever held any, in the marks at issue.
- 21 H. By way of further affirmative defenses, Hubb incorporates by reference the
22 charging allegations of its complaint against microDATA.
- 23 I. Hubb reserves the right to add further affirmative defenses at a later time.

24 Dated: September 4, 2007

FITZGERALD ABBOTT & BEARDSLEY LLP

25 By 
26 William E. Adams
27 Attorneys for Plaintiff Hubb Systems, LLC